



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Julie Edmonds-Mares
Jennifer A. Maguire

SUBJECT: SEE BELOW

DATE: December 4, 2013

Approved

Date

12/5/13

COUNCIL DISTRICT: 4

**SUBJECT: ADOPTION OF APPROPRIATION ORDINANCE AMENDMENTS IN THE
SUBDIVISION PARK TRUST FUND FOR A DEPOSIT TO PURCHASE
THE AGNEWS EAST PROPERTY FROM THE STATE OF CALIFORNIA
DEPARTMENT OF GENERAL SERVICES**

RECOMMENDATION

Adopt the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund:

- (1) Decrease the Ending Fund Balance: Future PDO / PIO Projects Reserve by \$250,000; and
- (2) Establish the Agnews Property Acquisition appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$250,000.

OUTCOME

If the proposal is selected by the State (Conditional Selection of Interested Party), the City of San Jose will move forward with the purchase 22-27 acres of the former Agnews Developmental Center property ("Agnews Property") for community park development and will commence discussions with Santa Clara Unified School District (SCUSD) staff regarding the potential joint use of the Agnews Property. This City Council action will fulfill one of the requirements of the Conditional Selection of Interested Party by making funds available to provide a minimum deposit into an escrow account in the event the City's proposal is conditionally selected by the State.

BACKGROUND

Per the memorandum on this subject heard by the City Council on November 5, 2013 (Item No. 2.9), staff received approval to formalize partnership discussions with SCUSD in a public resolution and submit a joint letter of intent that was issued on November 21, 2013 to purchase the Agnews Property in response to the State's Request for Proposal. In addition, the City Manager or designee was authorized to execute the purchase agreement and all other documents needed to conclude the transaction with the State of California if the proposal is selected by the State.

ANALYSIS

The State has indicated that they expect to select and notify proposers of their selection results within 30 to 60 days following receipt of proposals on November 21, 2013. The State may invite finalists in the selection process for oral interviews with no timetable provided for that phase of the disposition process.

Interested parties must also be able to provide the following if selected as finalists by the State:

- (1) A minimum deposit of one percent (1%) of the gross price deposited into an escrow account not later than five business days following delivery of the Conditional Selection of Interested Party to the selected buyer;
- (2) A cooperation agreement designating one entity as the lead representative if the proposal is from a team of buyers that is composed of more than one entity; and
- (3) Execution of final transactional documents which are consistent with the Letter of Intent/Offer within 90 days of the State making its selection.

The City and the SCUSD have identified funding sources to support an offer based on previous discussions with the State, including Subdivision Park Trust Fund and Construction Tax and Property Conveyance Tax Fund (City) and bond funding (SCUSD). Should the City and SCUSD's proposal be selected, a minimum deposit of 1% of the gross price must be deposited into an escrow account within a short period of time. The recommended budget action will appropriate funds for a deposit in the event the City's bid is conditionally selected by the State.

EVALUATION AND FOLLOW-UP

Staff will provide an informational memo to Council as soon as the State notifies respondents of information about selection results, oral interviews, next steps, a timeline for disposition of the Agnews Property and fiscal impacts.

PUBLIC OUTREACH/INTEREST

- ☐ **Criterion 1:** Requires Council action on the use of public funds equal to \$1,000,000 or greater. **(Required: Website Posting)**
- ☐ **Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

The recommended action does not meet any of the above criteria; however, this memorandum will be posted on the City's website for the December 17, 2013 City Council Agenda.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

The proposed project aligns with the adoption of the Greenprint 2009 Update by City Council, the City's General Plan and the NSJ Area Development Policy, including the NSJ neighborhoods Plan, by providing needed park land.

COST SUMMARY/IMPLICATIONS

The recommended action ensures sufficient funds are available for an escrow account deposit. Parkland fees previously collected in Council District 4 will be used to pay for these costs. This is separate from the Agnews Property Preliminary Studies appropriation established November 5, 2013 that provides funding for due diligence studies related to the Agnews property and a consultant to prepare RFP documents. Should the State select the bid submitted by the City/SCUSD and funds are deposited into escrow, the City is not obligated to purchase the Agnews property until findings from the preliminary studies have been evaluated.

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| 1. AMOUNT OF RECOMMENDATION/COST OF PROJECT: | \$250,000 |
| 2. SOURCE OF FUNDING: 375 – Subdivision Park Trust Fund | \$250,000 |

OPERATING COST: At this time, staff is unable to predict what the operating and maintenance impact on the General Fund would be given that the parkland needs to be developed. However, given the size of the parkland and the amenities that can be provided, the General Fund impact could exceed \$1.0 million. Therefore, staff will return at a later date to seek City Council certification of the capital project in accordance with Budget Principle No. 8.

BUDGET REFERENCE

The table below identifies the fund and appropriations recommended to be amended as part of this memorandum.


Fund #	Appn. #	Appn. Name	Current Appn.	Recommended Budget Action	2013-2014 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
375	8845	Reserve: Future PDO / PIO Projects	\$33,906,152	-\$250,000	V-543	11/05/13 Ord. No. 29333
375	NEW	Agnews Property Acquisition	N/A	\$250,000	N/A	N/A

CEQA

Not a Project, File No. PP10-067(b), Appropriation Ordinance.

/s/

JULIE EDMONDS-MARES
Director of Parks, Recreation and
Neighborhood Services


JENNIFER A. MAGUIRE
Budget Director

For questions please contact Matt Cano, Deputy Director, at (408) 535-3580.